

REMARKS

I. Status of the Application

By the present Amendment, claim 30 is hereby added. Claims 3-9, 11, 14-20 and 22-30 are all the claims pending in the Application, with claims 3-4, 8, 14-15 and 19 being in independent form. Claims 3-9, 11, 14-20 and 22-29 have been rejected.

The present Response addresses each point of objection and rejection raised by the Examiner. Favorable reconsideration is respectfully requested.

II. Claim Rejections Under 35 U.S.C. § 103

Claims 3, 6-9, 11, 14, 17-20, and 22-29 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Abraham in view of Nickles, both of which are previously of record. Claims 4, 5, 15, and 16 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Abraham in view of Engel. Applicant respectfully traverses all of these rejections for *at least* the reasons set forth below.

The Examiner was not persuaded by arguments that Abraham fails to provide any teaching or suggestion that the filter executive 76 disclosed therein is configured to monitor at least one of a data sequence of packets, a service identifier of packets or a checksum of packets, as claimed. In response, the grounds of rejection allege that FIG. 8 and column 21, lines 39-50 of Abraham teach these features.

Applicant respectfully disagrees with the grounds of rejection. Abraham does not teach, or even remotely suggest, the feature of a packet monitor device that is configured to monitor a service identifier of said packets, as recited in claim 3. The Examiner correctly points out that the specification states that a service identifier means, for example, control data used for

identifying a service which the AP server 8 provides to a user, such as e-mail service. However, contrary to the recitations of claim 3, Abraham merely teaches denying a user access to information transferred using the file transfer protocol. Column 21, lines 39-42. Abraham provides no teaching or suggestion that the filter engine 78 (which the grounds of rejection allege to correspond to the claimed packet monitor device) is configured to monitor a service identifier of said packets, as claimed.

Contrary to claim 3, at the very most, Abraham teaches identifying information using the file transfer protocol. The file transfer protocol is a commonly used computer language that allows users to copy files between their local system and any system they can reach on the network. *See e.g.*, Ultralingua Online Dictionary¹. However, Abraham's teaching of identifying information using a particular computer language, does not in any way correspond to monitoring a service identifier of packets, as claimed.

Indeed, the MPEP requires that the Examiner must give the claims of the present application their broadest reasonable interpretation. MPEP §2111.01. Contrary to the grounds of rejection, one of ordinary skill in the art would not reasonably interpret the recitation "wherein said packet monitor device is configured to monitor at least one of... a service identifier of said packets," in claim 3, to correspond to identifying information using the file transfer protocol, as taught in Abraham, for *at least two* fundamental reasons.

First, one of ordinary skill in the art would recognize that a protocol is a computer language enabling computers that are connected to each other to communicate. *See e.g.*,

¹ <http://ultralingua.com/online-dictionary/index.html?service=ee&text=file+transfer+protocol>.

Cambridge Advanced Learner's Dictionary, definition of "protocol (COMPUTING)."² Thus, the Examiner's proposed interpretation of the claimed "a service identifier of said packets" as corresponding to a protocol ID, as taught in Abraham, is clearly not reasonable as required by the MPEP. A skilled artisan would certainly recognize that, whereas a protocol ID is an identifier for a particular computer language, a service identifier identifies a particular service provided by a server to a user. In contrast to the grounds of rejection, one of ordinary skill would not equate a protocol to a service. Further, the grounds of rejection have not provided any evidence in fact and/or reasoning to support such an unreasonable assertion³.

Second, the Examiner's proposed interpretation of the claimed "a service identifier of said packets" as allegedly corresponding to Abraham's protocol ID is not reasonable as required by the MPEP because such an interpretation would require a skilled artisan to ignore the express teachings of Abraham. As taught in Abraham, in block 276 of FIG. 7B, a record for a newly added protocol is added to the protocol table 116 in database 72, wherein "[t]he protocol record includes a protocol ID identifying the record itself" (emphasis added). Column 21, lines 46-47. Indeed, throughout Abraham's disclosure, Abraham expressly teaches that "the protocol ID identifi[es] the record in the protocol table 116" (emphasis added). Column 21, lines 59-62.

² <http://dictionary.cambridge.org/define.asp?key=63649&dict=CALD>.

³ It is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This burden can only be satisfied by an objective teaching in the prior art or by cogent reasoning that the knowledge is available to one of ordinary skill in the art. *See In re Lahu*, (747 F.2d 703, 223 U.S.P.Q. 1257 (Fed. Cir. 1984)).

Thus, Abraham's protocol ID identifies a protocol record in the protocol table 116 and not a service, as claimed.

Therefore, in order to interpret the claimed recitation "a service identifier of said packets," as corresponding to Abraham's protocol ID, one would have to ignore the express teachings of Abraham that the protocol ID identifies a particular record in the protocol table 116. Hence, the Examiner's proposed interpretation is clearly not reasonable, as required by the MPEP.

For *at least* the reasons mentioned above, Abraham fails to provide any teaching or suggestion that the filter executive disclosed therein is configured to monitor at least one of a data sequence of packets, a service identifier of packets or a checksum of packets, as claimed. Further, neither Nickles nor Engle remedy the deficient teachings of Abraham.

Therefore, Applicant submits that claim 3 is patentable over the cited references, and any combination thereof, for *at least* these reasons. Further, Applicant submits that the dependent claims 6-7 and 25-29 are patentable *at least* by virtue of their dependency.

Additionally, with respect to claim 29, Abraham fails to teach or suggest the feature of wherein said threshold parameter comprises a duration after which a packet coincides with the monitoring parameter or a service fee, as claimed. Contrary to the recitations of claim 29, Abraham teaches nothing more than that, after kicking off the logging threads in block 538, and after kicking off the notification thread, the filter executive 76 waits for a predetermined time interval before taking any further action. Column 40, lines 19-34. Abraham nowhere teaches or suggests that Abraham's predetermined time interval designates a method of monitoring said

packet, or that Abraham's predetermined time interval comprises a duration after which a packet coincides with the monitoring parameter or a service fee, as claimed.

Independent claims 4, 8, 14, 15 and 19 recite similar features to claim 3 and, therefore, are patentable for *at least* reasons analogous to those presented above. Moreover, Applicant submits that claims 5, 9, 11, 16-20 and 22-24 are patentable *at least* by virtue of their respective dependencies.

Accordingly, Applicant respectfully requests that the Examiner withdraw these rejections.

III. New Claim

New claim 30 has been added and is fully supported by the original specification. No new matter has been added. Claim 30 is patentable over the cited references *at least* by virtue of its dependency and by virtue of the recitations set forth therein.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111
Application No.: 09/788,566

Attorney Docket No.: Q63195

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/ Andrew J. Taska /

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: May 28, 2008

Andrew J. Taska
Registration No. 54,666